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99th Congress, 2d Session - - - - - - - - - House Document 99-243

ORIGINAL

REVIEW OF DEFERRAL

COMMUNICATION

FROM

THE COMPTROLLER GENERAL OF THE UNITED STATES

TRANSMITTING

A REVIEW OF THE DEFERRAL OF BUDGET AUTHORITY AFFECTING THE FARMERS HOME ADMINISTRATION SUBMITTED BY THE PRESIDENT IN HIS FOURTH SPECIAL MESSAGE ON MARCH 12, 1986, PURSUANT TO 2 U.S.C. 685

JULY 14, 1986.—Referred to the Committee on Appropriations and ordered to be printed

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

July 9, 1986

B-220532

The Honorable Thomas P. O'Neill, Jr.
Speaker of the House of Representatives

Dear Mr. Speaker:

On March 12, 1986, the President's fourth special message for fiscal year 1986 was submitted to the Congress. Enclosed is our report on Deferral No. D86-60 of that message, affecting budget authority of the Farmers Home Administration. We reported on all other impoundments submitted in the fourth message in our letter to the Congress, GAO/OGC-86-14, May 6, 1986.

This deferral was disapproved by the Urgent Supplemental Appropriations Act, Pub. L. No. 99-349, July 2, 1986. The Office of Management and Budget has indicated to us that the $700 million deferred will be released for obligation during the week of July 7. We will monitor the Administration's actions to assure release of the funds.

Sincerely yours,

for Milton J. Socolar
Comptroller General
of the United States

Enclosure

GAO/OGC-86-17

RECEIVED
JUL 14 1986
GAO

COMMENTS ON DEFERRAL NO. D86-60

DEPARTMENT OF AGRICULTURE

D86-60 Farmers Home Administration
Rural Housing Insurance Fund
(including FFB loan asset purchases)
Amount to be deferred: $700,000,000
12X4141

The Rural Housing Insurance Fund (the Fund) is a revolving fund created by the Housing Act of 1949, as amended, for use by the Farmers Home Administration (FmHA) in making rural housing loans and paying costs associated with such loans. 42 U.S.C. § 1487. The Fund can borrow from the Treasury to make loans, and is the repository for loan repayments.

The Continuing Appropriations Act for fiscal year 1986 provides that approximately $2.1 billion "shall be available" from the Fund for loans authorized by title V of the Housing Act. Pub. L. No. 99-190, 99 Stat. 1185, December 19, 1985. The President deferred $700 million of the $2.1 billion pending congressional action on a legislative proposal to reduce by $700 million the amount available from the Fund for fiscal year 1986. Because there were indications at one time that this deferral, if not disapproved, might continue through fiscal year 1986, we considered whether this would result in a de facto rescission, which occurs when deferred funds expire or otherwise become unavailable for obligation as a result of the deferral.

We were recently advised by an OMB official that this withholding would in no event continue through this fiscal year. Accordingly, we consider the classification as a deferral to be proper.

The OMB official explained that the deferred funds would be made available in time to permit their obligation in an orderly fashion before the end of this fiscal year, unless the Congress earlier enacted the proposed legislation to reduce the amount available in the Fund this year by $700 million. This official

also said that the funds would be made available at any time the Congress enacted a law disapproving the deferral.1/ This deferral was disapproved by the Urgent Supplemental Appropriations Act, Pub. L. No. 99-349, July 2, 1986. The Office of Management and Budget has indicated to us that the $700 million deferred will be released for obligation during the week of July 7. We will monitor the Administration's actions to assure release of the funds.

1/ Under section 1013(b) of the Impoundment Control Act, 2 U.S.C. § 684(b), deferred budget authority must be made available for obligation if either House of Congress passes an impoundment resolution disapproving the deferral. Because of doubts about the constitutionality of that mechanism, raised by the decision of the Supreme Court striking down a one-House legislative veto (Immigration and Naturalization Service v. Chadha, 462 U.S. 919 (1983)), the practice of the Congress since that decision has been to disapprove deferrals by enacting a law. The United States District Court for the District of Columbia, relying on Chadha, recently found section 1013 to be unconstitutional because of the provision for a one-House disapproval resolution. New haven v. United States, No. 86-0455, slip op. (D.D.C. May 16, 1986). The court's decision was stayed pending appeal.

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